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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/681,796

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Stephen Brian Gates

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08/15/2006

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EXAMINER

DINH, DUC Q

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/681,796	Applicant(s) GATES ET AL.	
	Examiner DUC Q. DINH	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2006 has been entered.

Claims 1-4, 9-12, 14, 20, and 22-28 are cancelled, claims 29-39 are newly added. A Non-Final Office Action is provided as follows.

Claim Objections

2. Claims 30 objected to because of the following informalities: "the control device as recited in claim 1" in line 1 should read ""the control device as recited in claim 30" for being consistent with the new claim 30.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 9-13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen et al. (U.S Patent No. 6,137,479) hereinafter Olsen, in view of Lu (US 2003/0107552 A1).

In reference to claim 1 Olsen discloses a controlling device (Fig. 2A) for controlling a PC and one or more home appliances (col. 2, lines 40-68), the controlling device comprising:

a wireless transmitter for sending control data to the PC and one or more home appliances (col. 4, lines 6-9; col. 5, lines 1-7).

a plurality of user interface buttons (28 and 36)

programming (in computer 30; col. 4, lines 23-31) responsive to the signal generated by the sensor for selectively enabling either a first subset (28) of a plurality of user interface buttons (26 and 38) or a second subset of the plurality of user interface buttons (36) which is distinct from the first subset of user interface buttons (28) wherein a first subset (28) of the plurality of user interface buttons are activatable to cause the control data to be transmitted to the PC via the wireless transmitter and the second subset (36) of the plurality of the user interface buttons (28 and 36) are activatable to cause the control data to the one or more home appliances via wireless transmitter (the computer mouse can be programmed to perform other functions such as controlling auxiliary devices; col. 4, lines 64-67)

Accordingly, Olsen discloses everything except a sensor for generating signal indicative of a position of the control device relative to the surface

Lu discloses a computer mouse with dual functionality including a sensor for generating signal indicative of a position of control device (mouse 112) with a surface [0030-0031].

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide a sensor a sensor for generating signal indicative of a position of control device (mouse 112) relative to a surface in the mouse of Olsen in view of the teaching of Lu because it

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would provide a control device that can avoid inadvertent operations between computer and home appliances.

In reference to claim 2, Olsen discloses the wireless transmitter comprises a first wireless transmitter (col. 4, lines 5-10) and a second wireless transmitter (col. 5, lines 1-7), the first wireless being used in response to activation of any of the first subset (28) of the plurality of user interface buttons (28 and 36) [use for the mouse mode; col. 4, lines 5-10] and the second wireless transmitter being used in response to activation of any of the second subset (key of the keypad 36 of the user interface buttons (remote control mode; col. 5, lines 1-7).

In reference to claims 31 and 32, Olsen discloses the wireless transmitter can be infrared or radio frequency (col. 4, lines 5-10; col. 5, lines 1-5).

In reference to claim 33, Olsen discloses keys 34 of keypad 36 is hark keys (col. 5, lines 34-40).

In reference to claim 39, Olsen discloses wherein at least one of the plurality of user interface buttons is included within both the first subset of the plurality of user interface buttons and the second subset of the plurality of user interface buttons (col.5, lines 39-42)

Claims 22-27 are method and computer instructions claims corresponding to the apparatus of claims 1-4, 9-13, 20 and therefore, rejected based on the same basis set forth in said claims.

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5. Claims 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Lu (US 2003/0107552 A1) as applied to claims 29-33 and 39 above and further in view of Lueders (U.S Patent No. 6,067,074).

In reference to claims 34 and 34, the combination of Olsen and Lu does not disclose the button based user interface comprises an EL panel and a graphical user interface having active elements for causing the control data signals to be transmitted to the system. Lueders discloses a button based user interface using an EL panel (34; Fig. 2) with graphical user interface having active elements provided on the panel (Fig. 4-5 and 8; col. 4, lines 32-43; col. 6, lines 41-51).

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the EL panel with the graphical user interface provided thereon in the control unit of Olsen and Lu in view of the teaching of Lueders because it would provide users a friendly control panel for controlling including an array of pressure sensitive dots responding to a graphical input giving the users new options to select for accomplishing desired function (col. 2, lines 62-65).

In reference to claim 26, Olsen discloses the first subset (28) comprises a plurality of hard keys (mouse button 28; Fig. 2A).

In reference to claim 37, refer to the rejection as applied to claim 34 and 35 fro the keys represented on the display.

In reference to claim 38, Olsen discloses the display 34 remain dark (not active) when the computer mouse is in used (col. 4, lines 23-43).

Response to Arguments

6. Applicant's arguments with respect to newly presented claims 29-39 have been considered but are persuasive.

In response to applicant's arguments against the references individually, i.e. Lu does not concerned with controlling anything other than movement of the cursor and selection on the PC screen, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case, it would have been obvious for one of ordinary skill in the art at the time of the invention to provide a sensor for generating signal indicative of a position of control device (mouse 112) relative to a surface in the mouse of Olsen in view of the teaching of Lu because it would provide a control device that can avoid inadvertent operations between computer and home appliances as discussed above.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q. DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD HJERPE can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DUC Q DINH
Examiner
Art Unit 2629

A handwritten signature in black ink, appearing to read 'Duc Q Dinh', written in a cursive style.

DQD
August 9, 2006